

STATE OF CALIFORNIA
ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

In the Matter of:) Docket No. 01-AFC-08
)
Application for Certification,) STAFF COMMENTS
for the OCOTILLO ENERGY PROJECT, PHASE 1) RE: QUALIFICATION
by Ocotillo Energy LP) FOR EXPEDITED
) PROCESS DECISION

On July 10, 2001, Staff filed its recommendation regarding whether the Ocotillo project should continue in the 4-month process. On July 13, 2001, Ocotillo filed its response and included information regarding the Best Available Control Technology (BACT) issue, the offset strategy, and visibility concerns. On July 17, 2001, Staff filed a statement indicating that there might be additional information from other State and federal agencies that would be relevant to the Committee decision about continuing the 4-month process for this project. Staff indicated that we would file this statement by close of business on July 19, 2001.

Staff has oral assurances from the federal Environmental Protection Agency (EPA), the California Air Resources Board and the South Coast Air Quality Management District (SCAQMD) regarding the BACT issue. Those agencies have indicated that they have agreed with the applicant to a resolution of BACT. Based upon those assurances, Staff believes this issue has been resolved for the purposes of keeping this project within the Public Resources Code section 25552 process.

Staff received comments from the National Park Service (NPS), a copy of which is attached hereto. NPS believes that the cumulative impacts of this project and six other projects in the area have not been analyzed. It is concerned about the further

degradation of air resources in the Joshua Tree National Park, a Class 1 area. Those issues will have to be addressed by the applicant and Staff in the coming months.

Staff has also received a written letter from SCAQMD that, among other things, provides assurances that necessary offsets will be available for the project prior to expected operation. SCAQMD has also indicated that it will do its best to provide its Preliminary Determination of Compliance by the end of July, and to be able to cooperate in resolving project issues in a timely manner for the CEC to meet the four-month licensing schedule. The memo is attached hereto.

In conclusion, based upon the assurances given to Staff, Staff recommends that this project be allowed to continue in the Section 25552 process.

DATED: July 20, 2001

Respectfully submitted,

Jeffery M. Ogata
Senior Staff Counsel

Subject:

Author: JOTR Asst Superintendent at NP-JOTR

Date: 7/18/01 3:06 PM

Gentlemen,

Thank you for the opportunity to comment on the Ocotillo Power Plant permit application under consideration by your agency (CEC). While these are not the final comments the National Park Service (NPS) will make regarding Ocotillo, and we do not relinquish through these comments our responsibility, or the requisite 60 day comment period, let me take this opportunity to raise number of issue for your consideration.

We agree with CEC staff comments (docket no 01-AFC-8) regarding the expedited four month review process. The Ocotillo project does not in our opinion meet the criteria. The project should undergo a formal 12-month review process, and give the NPS adequate time to evaluate impacts.

The proposed BACT of 9ppm NOx does not appear to be appropriate. Hot side Selective Catalytic Reduction (SCR) would represent BACT and could reduce emissions to 2ppm NOx. The BACT issue remains unresolved.

Visibility impacts to Joshua Tree National Park remain unresolved. Visibility impact modeling analyses included in the Ocotillo application indicate both potentially adverse far field haze impacts and far field plume impacts within the park. Air resources and visibility issues remain unresolved including Class I increment consumption.

Offsets are proposed in the permit, in compliance with SB-28. These offsets are currently unidentified and the question remains unresolved as to where those offsets would be located and how they would effectively offset impacts attributed to Ocotillo. No known potential offsets exist or are described by the applicant in proximity to the Ocotillo site.

The National Park Service is concerned that the current proposal does not consider the cumulative impacts of all proposed projects. There are no less than 6 proposed power plants, of the kind described in the Ocotillo application, in proximity to Joshua Tree National Park. Cumulative, connected or similar actions that have an additive effect need to be evaluated through an environmental planning document. While the Prevention of Significant Deterioration analysis does not require multiple source evaluation, NEPA and CEQ does.

Joshua Tree National Park is the most highly polluted National Park in the country. Joshua Tree NP is a Class I area in Non-attainment of the NAAQS. This application has the potential to add to the degradation of air resources at Joshua Tree National Park. We urge the CEC to move cautiously in the consideration of this application, and to work with NPS staff to assure the protection of park resource and assure that no action

taken would further degrade the air quality of a Class I area in Non-attainment.

Thank you for your consideration

July 20, 2001

Mr. Robert L. Therkelsen
Deputy Director
Systems Assessment & Facilities Siting
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512

Subject: Ocotillo Energy Project (01-AFC-08)

Dear Mr. Therkelsen:

This is in response to your July 16, 2001 letter to me (signed by Mr. Robert B. Housler on your behalf) regarding the Ocotillo Energy Project. In your letter you have request my written response to your questions regarding a number of issues that the California Energy Commission (CEC) believes are "critical time-sensitive issues." These include questions regarding the South Coast Air Quality Management District's (AQMD's), time frame for issuance of a Preliminary Determination of Compliance (PDOC), the AQMD's determination of Best Available Control Technology (BACT) and several other questions regarding emissions offsets.

Based on your letter and my subsequent conversations with Mr. Robert Housler of your staff it is my understanding that the questions in your letter are raised in relation to the CEC's four-month licensing process schedule for this project. However, before providing answers to your specific questions, I would like to impress on one point. As you know, the AQMD staff has worked very diligently with CEC staff, particularly on several projects this year, to provide our DOCs in an expeditious manner. This has facilitated CEC's expedited licensing process of not only the four-month, but even the 21-day permitting process that CEC has established under the Governor's Orders.

I would like to assure you that AQMD staff will continue our cooperation with CEC staff to ensure our expeditious review and issuance of DOCs for the Ocotillo Energy Project, as well. To that end, although the issues raised in your letter are considered critical, the AQMD staff is committed to work closely with CEC, California Air Resources Board (ARB), and U.S. Environmental Protection Agency (EPA) staff as well as the applicant and expects to resolve these issues in a timely manner for CEC to meet the four-month licensing schedule.

The following will provide additional and more specific information in response to questions in your letter:

1. The AQMD will do our best to issue a PDOC by the end of July 2001.
2. The AQMD is in close contact with ARB and EPA regarding proposed emission levels and BACT determination for this project. It is our opinion that based on special circumstances associated with this project, the simple cycle gas turbines

emission levels of 9ppm NO_x are acceptable. It is also our understanding that the project will be converted to a combined cycle within 18 months of operation, but by no later than the end of 2003, at which time it will reduce NO_x emissions down to 2.5 ppm or lower, as appropriate.

3. The project emissions can be offset through a variety of sources. These include use of Emission Reduction Credits (ERCs), NO_x RECLAIM Trading Credits (RTCs) or Air Quality Investment Program (AQIP), if the applicant volunteers to enter into the RECLAIM program, AQMD's Priority Reserve for PM₁₀ offsets, or other approaches such as inter-pollutant trades. Please note that all emission reduction mentioned above are either already achieved or for example in the case of AQIP, will be achieved prior to being allowed to be used for the operation of the new source. In addition, any mobile source emission reduction credits used for AQIP will be from sources within the AQMD jurisdiction similar to the Carl Moyer credits in the ARB's ERC bank used for permitting of CEC's peaker powerplants.

The following are more specific answers to question #3 in your letter:

- a) The rules authorize several different kinds of fleets to be controlled as follows:
 - Rule 1612.1 (converted to clean fuels)
 - Refuse collection vehicles
 - Yard hostlers (on-road or off-road engines)
 - Other heavy duty on-road vehicles
 - Rule 1631 (repowering to cleaner engines)
 - Marine vessels (e.g., tugboats, fishing boats)
 - Rule 1632
 - "Hotelling" operations (providing electricity to marine vessels while at berth so they do not need to run their engines)
 - Rule 1633
 - Truck/trailer refrigeration units (providing electricity so trucks do not need to run their auxiliary power units or engines while at distribution centers)
 - Rule 2507
 - Agricultural pumps (replacing diesel with electric power)
- b) The AQMD has already entered into contracts for some of the reduction projects, and expects to begin additional projects as participants and funding is available. It is expected that credits will be in the reserve before the June 2002 date.
- c) The AQMD has identified 200 tons worth of credits from projects known to date. During the rulemaking process, the AQMD estimated AQIP to account for 350 tons of the credits available on the market, with a total of 1,450 tons available to sources from the AQIP, mitigation fee program and private contracts combined. However, the amounts contributed from each of the programs are not fixed and may vary. Since the AQIP is distributed on a first-come, first-served basis the AQMD cannot guarantee the availability of credits to any individual applicant, but it is anticipated that through the three

methods of generation sufficient credits will be available to meet the needs of the applicants. However, there are other offset sources that could be used (i.e. RTCs) in lieu of, or in addition to, AQIP.

- d) The AQMD has worked closely with EPA and the ARB during the rulemaking process to ensure that the credit programs will produce credits that are real, quantifiable, verifiable, enforceable, permanent for RECLAIM purposes and surplus.

I hope this addresses the issues raised in your letter. Again I would like to reiterate that it is our intent to work closely with you and your staff to ensure expeditious review and evaluation of all air quality related issues for this project in order to assist you in meeting your compressed licensing schedule. If you have any questions, please feel free to contact me at 909.396.2662.

Sincerely,

Mohsen Nazemi, P.E.
Assistant Deputy Executive Officer
Engineering and Compliance

MN:am

cc: Barry Wallerstein
Barbara Baird
Carol Coy
Pang Mueller
Robert Housler, CEC
Mike Schiebel, ARB
Jack Broadbent, EPA